

Attorney Docket No.: 6004.200-US

PATENT #16 9/4/03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Belguith et al.

Application No.: 09/383,318

Group Art Unit: 1652

Filed: August 26, 1999

Examiner: Slobodyansky

Confirmation No: 6411

For: Polypeptides Having Glucose Isomerase Activity And Nucleic Acids Encoding Same

RESPONSE UNDER 37 C.F.R. 1.111Commissioner for Patents
Washington, DC 20231

Sir:

This is in response to the Office Action mailed October 17, 2000.

REMARKS

Claims 13, 15-17 and 22 are still pending in the present application.

For clarification, Applicants note that the correct spelling of the first inventor's name is Karima Srih-Belguith. Applicants thank the Examiner for pointing out the inconsistencies.

Claims 13, 15-17 and 22 stand rejected under 35 U.S.C. 102 over Belguith et al. Claims 15-17 and 22 also stand rejected under 35 U.S.C. §103 over Belguith et al. With regard to both the §102 and §103 rejections, the Examiner states that Belguith et al. discloses xylA gene from *Streptomyces* sp. SK (GenBank accession Y 15518) which is identical to SEQ ID NO:1 of the claimed invention. In response, Applicants previously pointed out that the nucleic acid described by Belguith et al. had not been deposited in a public depository until February 1, 1999, and thus was not in the public domain. The Examiner has now responded by stating that the sequences can nevertheless be obtained from *Streptomyces* sp. SK using a 500 bp DNA fragment from the 5' end from xylA from *S. olivochromogenes*, and "there is no evidence of record that *Streptomyces* sp. SK was not in the public domain."